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Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Belize, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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Annex

[Original: English]

Letter dated 21 December 2001 from the Minister Counsellor of the Permanent Mission of Belize to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instructions from my Government, I have the honour of enclosing a report from Belize to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001).

My Government stands ready to provide the Committee with further reports or information, as necessary or if requested to do so by the Committee.

I should be grateful if the text of the present note and the enclosed report could be circulated as a document of the Security Council.

(*Signed*) Janine **Coye Felson**
Minister Counsellor

Enclosure

Belize's Counter-terrorism preliminary report pursuant to Security Council resolution 1373 (2001)

1. The following questions indicated by 'operative paragraph' and 'sub-paragraphs' refers to each numbered paragraph of the UN resolution 1373 that is due before or on the 27th December 2001. This particular reporting format was developed by the United Nations Counter Terrorism Committee for implementation by member states.

Operative Paragraph 1

Sub-paragraph (a) - What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1(b) to (d)?

The Government of Belize has adopted a three-pronged approach to implement UN Security Council resolutions, including Resolution 1373: (1) to enact a United Nations Resolutions and Conventions (Enforcement) Act to give effect to UN Resolutions and Conventions; (2) to strengthen the Money Laundering (Prevention) Act to freeze the assets of terrorists and money launderers without delay and (3) to accede to and ratify the relevant UN conventions.

i. In this regard, the United Nations Resolutions and Conventions (Enforcement) Bill, 2001, was introduced into the House of Representatives on 7 December 2001. It is an enabling measure that empowers the Minister of Foreign Affairs to make an order containing such provisions as may be necessary to implement a resolution of the Security Council, passed under Chapter 7 of the UN Charter. It also enables the Minister of Foreign Affairs to give effect to any UN Convention signed by Belize. Every such Order shall be laid before the National Assembly and shall be subject to negative resolution.

ii. The Money Laundering (Prevention) (Amendment) Bill, 2001, was introduced into the House of Representatives on 7 December 2001; it amends the Money Laundering (Prevention) Act, 1996 to make improved provisions to combat terrorism and to provide for the speedy freezing of funds and other financial assets of terrorists and money launderers.

Sub-paragraph (b) - What are the offences and penalties in your country with respect to the activities listed in this sub-paragraph?

Punishment for offences will be the same for Money Laundering offences outlined in the Money Laundering Act, Chapter 104, Part II, No. 4 provides: A person of an offence is guilty of an offence under the provisions of the Money Laundering Prevention Act (1996) shall be punishable on conviction with a fine which shall not be less than $25,000 but which may extend to $100,000 or with imprisonment for a term which shall not be less than three years, but which may extend to $100,000 or with imprisonment for a term which shall not be less than three years, but which may extend to six years, or to both such fine and terms of imprisonment.

Sub-paragraph (c) - What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.

Please refer to Section 19 of the Money Laundering Prevention Act, which details the existing procedures for freezing of accounts and assets at banks and financial institutions.

The main amendments contained in the Money Laundering (Prevention) (Amendment) Bill, 2001 are summarized as follows:

i. It would enable the Supervisory Authority (Governor Central Bank) to instantly freeze funds and financial assets of any person, to facilitate any investigation, prosecution or proceeding for a money laundering offence, whether in Belize or elsewhere.

ii. A new Section 11A is being added to make a specific provision to freeze funds connected with terrorism: the power to freeze funds is given to the Supervisory Authority, but the affected person will have a right to apply to the Supreme Court to have the Order set aside.

iii. Section 23 of the principal Act, which deals with international cooperation in money laundering offences, is being amended to delete subsection (6) which states that "assistance referred to in this section shall be provided only to those countries with whom Belize has entered into mutual legal assistance treaties on a bilateral or multilateral basis."

iv. In the context of international cooperation, the Supervisory Authority is being empowered to take such action as may be necessary, including the freezing of assets, to give effect to a decision or recommendation of the Security Council.

v. The First Schedule to the principal Act which contains a list of activities falling within the purview of the Money Laundering (Prevention) Act is being expanded to include international financial services, legal services and accounting services.

Sub-paragraph (d) - What measures exist to prohibit the activities listed in this sub-paragraph?

See Section 20 of the Act which provides for the forfeiture of property, proceeds and instrumentalities derived from or related to the offence.

Section 13 of the Act places an obligation upon financial institutions to report any suspicious business transactions.

In addition, the Supervisory Authority of Central Bank has circulated the lists of names of individuals and organizations suspected to be involved in terrorism to financial institutions, including offshore practioners, requesting them to check their customers' database and notify Central Bank if any of the listed persons has conducted business.

Currently financial institutions are being encouraged to implement new measures in compliance with international standards to combat terrorism.

Operative Paragraph 2

Sub-paragraph (a) - What legislation or other measures are in place to give effect to this sub-paragraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

The Special Branch of the Belize Police Department, under its terms of reference, is to gather intelligence and target terrorists/ subversive groups.

Under the firearms act, any person or persons carrying a firearm without a license commits an offence. Similarly under our Customs Regulations, a person can be charged up to three times the value of the goods for not declaring it.

Sub-paragraph (b) - What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other states?

At present, the Belize Police Department has in place the Joint Intelligence Coordinating Center (JICC) which collates all intelligence on criminal matters from all government agencies. JICC also has the INTERPOL desk which gives the most recent, up dated, list of any wanted persons. In turn, this information is then disseminated to the relevant agencies, including all ports of entry. JICC is also tasked to share information with their respective foreign counterparts. There is also a close working relationship between JICC and the U.S.A.'s resident Drug Enforcement Agency (DEA) office in Belize in terms of foreign requests and intelligence gathering.

Sub-paragraph (c) - What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this sub-paragraph? It would be helpful if States supplied examples of any relevant action taken.

Providing that the Unit's whose responsibility within the Belize Police Department is to identify and gather intelligence are notified within a reasonable time, they can update their watch list at all ports of entry in order to stop unwanted persons from entering the country.

If the person has entered the country under the immigration law, once the identity of the person has been confirmed, such a person can be extradited.

Presently, immigration law does not include specific reference to terrorism. Nevertheless, the law does have procedures whereby any person who, in the Minister's view, is a threat to security of Belize can be expelled immediately or refused entry by an Immigration Officer. If and when that individual may have obtained Belizean citizenship the law also states the Minister can revoke citizenship on the basis that he/she was granted citizenship by error or false pretence.

Sub-paragraph (d) - What legislation or procedures exists to prevent terrorists acting from your territory against other states or citizens? It would be helpful if States supplied examples of any relevant action taken.

Once a person is identified as a terrorist, or as being involved in terrorist activities, he/she may be extradited under the provisions of the Extradition Act and his/her assets may be forfeited under the Money Laundering Prevention Bill.

Sub-paragraph (e) - What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.

At present, this offence concurs with the enactment of legislation entitled the "Suppression of Terrorism Act" geared toward making acts specifically related to terrorism offences.

Sub-paragraph (f) - What procedures and mechanisms are in place to assist other states? Please provide any available details of how these have been used in practice.

The Extradition Act, Chapter 112 of the Laws of Belize, includes a clause which states that a person who commits offences relating to the law of terrorism can be extradited.

In January 2002, Belize ratified a Mutual Assistance Treaty on Criminal matters with the United States of America. This treaty provides for the sharing of information/ documents and the freezing and seizure of assets. The USA has not yet ratified the treaty. However, the Money Laundering Prevention Bill allows

for general information sharing and assistance by withdrawing such obligations to occur solely through Mutual Assistance Treaties.

Sub-paragraph (g) - How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc?

At present the Belize Defence Force (BDF) and Belize Police Department conduct border patrols at key border crossing areas, especially between the Belize/Guatemala border. In other instances, (police, BDF, Customs and Immigration) using the multi-agency approach, conduct operations within our borders and territorial waters, targeting offences pertaining to their respective agency.

Our Immigration ports of entry do not yet have computers so everyone passing in and out of Belize is processed manually. However, many of our officers have training in identification of false documentation and from time to time at the Belize Western border some persons have been detected with false passports. Our ports of entry also have ultraviolet lamps ("Black Lights") which officers can use in the event they are suspicious of a document especially if the document used (i.e.) passports has security features which can be seen under the said mechanism.

Operative Paragraph 3

Sub-paragraph (a) - What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this sub-paragraph?

(See responses at sub-paragraph c below.)

Sub-paragraph (b) - What steps have been taken to exchange information and cooperate in the areas indicated in this sub-paragraph?

Information has been shared both formally and informally on intelligence/criminal matters. Formally, we have been using the Money Laundering Prevention Act and the Code of Conduct (IFSP)-International Financial Services Practioners (Code of Conduct) –to respond to request made through the Attorney General's Office. Informally, intelligence has been shared between several foreign agencies, including the U.S. Drug Enforcement Agency (DEA).

Sub-paragraph (c) - What steps have been taken to cooperate in the areas indicated in this sub-paragraph?

At present, we have a bilateral Mutual Assistance Treaty with the USA. Some Conditions under the treaty include the transfer of persons in custody and the service of documents and search and seizure etc.

Belize is a signatory to the Central American Plan for Comprehensive Cooperation to Prevent and Combat Terrorism and Related Activities.

Belize is working with Caribbean countries in adopting bilateral and multilateral treaties to combat terrorism and related activities.

Sub-paragraph (d) - What are your government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this sub-paragraph?

The Government of Belize as mentioned in Operative Paragraph 1 will accede to relevant UN Conventions.

Sub-paragraph (e) - Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this sub-paragraph.

Belize has signed or ratified the following specialized conventions which provide the international legal framework for combating terrorism:

a. International Convention for the Suppression of the Financing of Terrorism (1999)
b. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons (1973)
c. International Convention for the Suppression of Terrorist Bombings (1998)
d. Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991)
e. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1988)
f. Hague Convention for the Unlawful Seizure of Aircraft (1970)
g. Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963)
h. Convention on the Physical Protection of Nuclear Materials (1979)
i. Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (1971)

In addition, the Cabinet has approved signing or ratifying the remaining three conventions in this framework:

j. Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (1988).
k. Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (1988)
l. Convention Against the Taking of Hostages (1979)

Sub-paragraph (f) - What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status? Please supply examples of any relevant cases.

The Refugee Act of 1991 allows for the appointment of an Eligibility Committee to determine whether or not a person will be accepted as a recognized Refugee in Belize. Since 1998 no new refugee application has been processed. Under the present law an applicant is required to undergo security vetting before he or she is granted refugee status in Belize.

Every person who now comes to Belize and requests refugee status goes to Help for Progress. Help for Progress is a local non-governmental agency which the UNHCR has assigned residual liaison responsibility since the return to peace and stability in Central America and the withdrawl of the agency from Belize. These persons who are referred to the Immigration Department from Help for Progress are assisted with obtaining legal status and advised to apply for residency or citizenship when they have satisfied the legal requirements. Any person who acquires Belizean citizenship must be cleared by a Security/ Interpol check done by the Special Branch of the Belize Police Department.

Sub-paragraph (g) - What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognized as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.

As mentioned above, due to the return to peace in Central America, no application for refugee status has been processed since 1998.

Assistance requested of the UN Counter-Terrorism Committee

Belize's law enforcement agencies need assistance in the forms of technical and advisory services, so as to better prevent and prove crimes of conspiracy, aiding and abetting.

Attachment 1

CHAPTER 104

MONEY LAUNDERING (PREVENTION)

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SECOND SCHEDULE

CHAPTER 104

MONEY LAUNDERING (PREVENTION)

12 of 1996.
Commencement
[1. 8. 1996]
S.I. 104 of 1996.

[*26th July, 1996*]

PART I

Preliminary

Short title.

1. This Act may be cited as the Money Laundering (Prevention) Act.

Interpretation.

2.(1) In this Act, unless the context otherwise requires-

"business transaction" means any arrangement, including opening an account, between two or more persons where the purpose of the arrangement is to facilitate a transaction between the persons concerned and includes any related transaction between any of the persons concerned and another person;

"business transaction record" includes where relevant to a business transaction -

(a) the identification of all the persons party to that transaction;

(b) a description of that transaction sufficient to identify its purpose and method of execution;

(c) the details of any account used for that transaction, including bank, branch and sort code; and

(d) the total value of that transaction;

"competent authority" means the Director of Public Prosecutions, and

includes any person authorized by him in that behalf;

"financial institution" means any person whose regular occupation or business is, for the account of that person, the carrying on of -

(a) any activity listed in the First Schedule to this Act; First schedule.

(b) any other activity defined by the Minister of Finance as such by an Order published in the *Gazette* amending the First Schedule to this Act; First schedule.

"freezing" means temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority;

"forfeiture" means the permanent deprivation of property by Order of a court or other competent authority;

"identification record" means -

(a) where the person is a corporate body, the details -

(i) of the certificate of incorporation, such certificate to be notarized where the corporate body is incorporated outside of Belize;

(ii) of the most recent annual return of the corporate body filed at the General Registry, such return to be notarized where the corporate body is incorporated outside of Belize;

(iii) of any officer of the corporation as required in paragraph *(b)* of this definition;

(b) otherwise, sufficient documentary evidence to prove to the satisfaction of a financial institution that the person is who that person claims to be,

and, for these purposes, "person" shall include any person who is a nominee, agent, beneficiary or principal in relation to a business transaction;

"instrumentality" means something that is used, or intended for use, in any manner in the commission of a money laundering offence;

"Minister" means the Minister responsible for legal affairs, unless specifically provided otherwise;

"money laundering" means -

(a) engaging, directly or indirectly, in a transaction that involves property that is the proceeds of crime, knowing or having reasonable grounds for believing the same to be the proceeds of crime; or

(b) receiving, possessing, managing, investing, concealing, disguising, disposing of or bringing into Belize any property that is the proceeds of crime, knowing or having reasonable grounds for believing the same to be the proceeds of crime;

"person" means any entity, natural or juridical, including among others, a corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture, or other unincorporated organisation or group, capable of acquiring rights or entering into obligations;

"prescribed offence" means an offence for the time being listed in the Second Schedule to this Act; Second Schedule.

"proceeds of crime" means any property derived or obtained, directly or

indirectly, through the commission of a prescribed offence, whether committed in Belize or elsewhere; and shall include any property which is knowingly mingled with property that is so derived or obtained;

"property" includes money, investments, holdings, possessions, assets and all other property real or personal, heritable or moveable, including things in action and other intangible or incorporeal property wherever situate (whether in Belize or elsewhere) and includes any interest in such property;

"Supervisory Authority" means the Governor, for the time being, of the Central Bank of Belize, and includes any person authorized by him in writing in that behalf.

(2) The Minister may from time to time by Order published in the *Gazette* amend the Second Schedule to this Act. Second Schedule.

(3) Knowledge, intent, purpose, belief or suspicion required as an element of any offence under this Act may be inferred from objective, factual circumstances.

PART II

Money Laundering Prohibited

3. A person who, after the commencement of this Act, engages in money laundering is guilty of an offence. Offence of money laundering.

4. Where an offence under the provisions of section 3 is committed by a body of persons, whether corporate or unincorporate, every person who, at the time of the commission of the offence, acted in an official capacity for or on behalf of such body of persons, whether as director, manager, secretary or other similar officer, or was purporting to act in such capacity, shall be guilty of that offence, unless he adduces evidence to show that the offence was committed without his knowledge, consent or connivance. Offence committed by a body of persons.

Attempts; aiding and abetting; conspiracy.

5. Any person who attempts or who aids, abets, counsels, or procures the commission of, or who conspires to commit, the offence of money laundering is guilty of an offence.

Penalty for money laundering.

6. A person guilty of an offence under the provisions of section 3, 4 or 5 of this Act shall be punishable on conviction with a fine which shall not be less than twenty-five thousand dollars but which may extend to one hundred thousand dollars, or with imprisonment for a term which shall not be less than three years but which may extend to six years, or with both such fine and term of imprisonment.

Tipping-off.

7.-(1) It is an offence for a person who knows or suspects that an investigation into money laundering has been, is being, or is about to be, made to divulge that fact or other information to another whereby the investigation is likely to be prejudiced.

(2) A person guilty of an offence under subsection (1) above shall be liable on conviction to a fine not exceeding fifty thousand dollars, or to imprisonment for a term not exceeding three years, or to both such fine and term of imprisonment.

Falsification, concealment, etc., of documents.

8.-(1) It is an offence for a person to falsify, conceal, destroy or otherwise dispose of or cause or permit the falsification, concealment, destruction or disposal of any document or material which is or likely to be relevant to an investigation into money laundering or to any order made in accordance with the provisions of this Act.

(2) A person guilty of an offence under subsection (1) above shall be liable on conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding five years, or to both such fine and term of imprisonment.

Jurisdiction.

9. Notwithstanding anything to the contrary contained in any other law, the offences created by this Act shall be investigated, tried, judged and

sentenced by a court in Belize regardless of whether or not the prescribed offence occurred in Belize or in another territorial jurisdiction, but without prejudice to extradition when applicable in accordance with the law.

PART III

Anti-Money Laundering Supervision

Appointment of Supervisory Authority.

10. The functions of the Supervisory Authority as provided in this Act shall be carried out by the Governor, for the time being, of the Central Bank of Belize or by any person authorized by him in writing in that behalf.

Powers of the Supervisory Authority.

11. The Supervisory Authority -

(a) shall receive the reports issued by the financial institutions pursuant to the provisions of section 13 (2);

(b) shall send any such report to the law enforcement authorities if, having considered the report, the Supervisory Authority also has reasonable grounds to believe that a money laundering offence is being, has been or is about to be committed;

(c) or a person authorised by the Supervisory Authority for such a purpose, may, if there are reasonable grounds for believing that a contravention or breach of this Act may have occurred; enter into the premises of any financial institution during normal working hours to inspect any business transaction record kept by that financial institution pursuant to the provisions of section 12 *(a)* and ask any questions relevant to such record and make any notes or take any copies of the whole or any part of any such record;

(d) shall send to the law enforcement authorities any information derived from an inspection carried out pursuant to the

provisions of paragraph *(c)* of this section if it gives the Supervisory Authority reasonable grounds to believe that a money laundering offence is being, has been, or is about to be committed;

(e) shall destroy any note or copy thereof made or taken pursuant to the provisions of paragraph *(c)* of this section within three years of the inspection save where any such note or copy has been sent to a law enforcement authority;

(f) may instruct any financial institution to take such steps as may be appropriate to facilitate any investigation anticipated by the Supervisory Authority following a report or investigation made under the provisions of this section;

(g) may compile statistics and records, provide information to law enforcement agencies and regulatory bodies within or without Belize in accordance with Part V of this Act, make recommendations arising out of any information received, issue guidelines to financial institutions and advise the Minister of Finance and the Attorney General with regard to any matter relating to money laundering;

(h) shall create training requirements and provide such training for any financial institution in respect of the business transaction record-keeping and reporting obligations as provided in paragraph *(a)* of section 12, and subsection (2) of section 13, respectively.

Obligations of financial institutions.

12. A financial institution shall -

(a) keep a business transaction record of any business transaction for a period of five years after the termination of the business transaction so recorded;

(b) comply with any instruction issued to it by the Supervisory Authority pursuant to section 11 *(f)*;

(c) permit any member of the Supervisory Authority upon request to enter into any premises of the financial institution during normal working hours and inspect the records kept pursuant to the provisions of paragraph *(a)* of this section and make any notes or take any copies of the whole or any part of any such record and shall answer any questions of the Supervisory Authority in relation to such records;

(d) comply with the guidelines and training requirements issued and provided by the Supervisory Authority respectively in accordance with paragraph *(g)* or *(h)* of section 11.

Reporting of suspicious business transactions by financial institutions.

13.-(1)Financial institutions shall pay special attention to all complex, unusual or large business transactions, or unusual patterns of transactions whether completed or not, and to all unusual patterns of transactions, and to insignificant but periodic transactions, which have no apparent economic or lawful purpose.

(2) Upon reasonable suspicion that the transactions described in subsection (1) above could constitute or be related to money laundering, a financial institution shall promptly report the suspicious transactions to the Supervisory Authority.

(3) Financial institutions shall not notify any person, other than a court, competent authority or other person authorized by law, that information has been requested by or furnished to a court or the Supervisory Authority.

(4) When the report referred to in subsection (2) above is made in good faith, the financial institutions and their employees, staff, directors, owners or other representatives as authorised by law, shall be exempted

from criminal, civil and/or administrative liability, as the case may be, for complying with this section or for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, regardless of the result of the communication.

(5) A criminal offence is committed by a financial institution or its employees, staff, directors, owners or other authorised representatives who, acting as such, wilfully fail to comply with the obligations in this section, or who wilfully make a false or falsified report referred to above.

(6) Without prejudice to criminal and/or civil liabilities for offences connected to money laundering, a financial institution ,and its employees that fail to comply with the requirements of this section shall be liable on conviction to a fine not exceeding fifty thousand dollars and in addition the licence of such financial institution to operate as such may be suspended or revoked by the Supervisory Authority.

(7) The question whether a reasonable suspicion for the purpose of subsection (2) of this section has been formed shall be determined objectively having regard to all the facts and surrounding circumstances.

Supervisory Authority's power to obtain search warrant.

14. The Supervisory Authority or a law enforcement agency, upon application to a Judge of the Supreme Court and satisfying him that there are reasonable grounds to believe that -

(a) a financial institution has failed to keep a business transaction record as provided by the provisions of section 12 *(a)*;

(b) a financial institution has failed to report any business transaction as provided by the provisions of section 13 (2); or

(c) an officer or employee of a financial institution is committing, has committed or is about to commit a money laundering offence,

may obtain a warrant to enter any premises belonging to, in the possession or under the control of the financial institution or any officer or employee of such institution and to search the premises and remove any document, material or other thing therein for the purposes of the Supervisory Authority or law enforcement agency as ordered by the Judge and specified in the warrant.

Property tracking and monitoring orders.

15. The Supervisory Authority or law enforcement agency, upon application to a Judge of the Supreme Court and satisfying him that there are reasonable grounds for believing that a person is committing, has committed or is about to commit a money laundering offence or for the purpose of determining whether any property belongs to, or is in the possession or under the control of any person, may obtain an order:-

(a) that any document relevant to-

(i) identifying, locating or quantifying any property; or

(ii) identifying or locating any document necessary for the transfer of any property,

belonging to, or in the possession or under the control of that person be delivered forthwith to the Supervisory Authority or law enforcement agency;

(b) that a financial institution forthwith produce to the Supervisory Authority or law enforcement agency all information obtained by the institution about any business transaction conducted by or for that person with the institution during such period before or after the date of the order as the Judge directs.

Mandatory injuction to enforce compliance.

16.-(1)The Supervisory Authority, upon application to a Judge of the Supreme Court and satisfying him that a financial institution has failed without reasonable excuse to comply in whole or in part with any obligation as provided in paragraph *(a)*, *(b)*, *(c)* and *(d)* of section 12 and subsection (2) of section 13, may obtain a mandatory injunction against any or all of the

officers or employees of that financial institution in such terms as the Court deems necessary to enforce compliance with such obligation.

(2) In granting an injunction pursuant to subsection (1) of this section, the Court may order that should the financial institution or any officer or employee of that institution fail without reasonable excuse to comply with all or any of the provisions of that injunction, such financial institution, officer or employee shall pay a financial penalty in the sum and in the manner directed by the Court.

Other measures to avoid money laundering.

17. A person who has been convicted of a prescribed offence (whether in Belize or elsewhere) or of an offence under this Act, may not be eligible or licensed to carry on the business of a financial institution.

Currency reporting when leaving Belize.

18. A person who leaves Belize with more than twenty thousand dollars in cash or negotiable bearer instruments (in Belize currency or equivalent foreign currency) without first having reported the fact to the Supervisory Authority, shall commit an offence under this Act and shall be liable on conviction to a fine not exceeding ten thousand dollars.

PART IV

Freezing and Forfeiture of Assets in Relation to Money Laundering

Restraint order.

19.-(1)Where a person has been charged or is about to be charged with a money laundering offence, the competent authority may make an application to the Supreme Court in accordance with subsection (2) for the freezing of the property of, or in the possession or under the control of that person, which is alleged to be the proceeds of crime, wherever such property may be.

(2) An application made under subsection (1), for a restraint order under subsection (3) in respect of any property may be made on an *ex*

parte application to a Judge in Chambers and shall be accompanied by an affidavit sworn on the information and belief of the competent authority or any other person deposing to the following matters, namely:-

(a) the offence or matter under investigation;

(b) the person who is believed to be in possession of the property;

(c) the grounds for the belief that an order of forfeiture may be made under this Act; and

(d) a description of the property.

(3) Where an application for a restraint order is made to a Judge under subsection (1), the Judge may, if satisfied that there are reasonable grounds to believe that there exists any property in respect of which an order of forfeiture may be made under this Act, make an order-

(a) prohibiting any person from disposing of, or otherwise dealing with, any interest in the property specified in the order otherwise than in such manner as may be specified in the order; and

(b) at the request of the competent authority, where the Judge is of the opinion that the circumstances so require,

(i) appointing a person to take control of and to manage or otherwise deal with all or part of that property in accordance with the directions of the Judge; and

(ii) requiring any person having possession of that property to give possession of the property to the

person appointed under subparagraph *(i)*.

(4) The Court or Judge in making an order under subsection (3) may give directions as to the disposal of that property for the purpose of -

(a) determining any dispute as to the ownership of the property or any part thereof;

(b) its proper administration during the period of freezing;

(c) the payment of moneys to that person for the reasonable subsistence of that person and his family;

(d) meeting the reasonable business and legal expenses of the person referred to in subsection (1); and

(e) permitting the use of the property in order to enter into a recognizance required of that person by a court.

(5) For the purpose of determining the reasonableness of business and legal expenses referred to in subsection (4) *(d)*, a Judge may hold a hearing in chambers.

(6) Before making an order under subsection (3), the Judge may require the competent authority to give such undertakings as the Judge considers appropriate with respect to the payment of damages or costs, or both, in relation to the making and execution of the order.

(7) An order made under subsection (3) shall provide for notice to be given to persons affected by the order in such manner as the Judge directs or as may be prescribed by rules of court.

(8) A copy of the order made under subsection (3) shall be filed in the Registry of the Supreme Court against any property affected by the

order.

(9) An order made under the provisions of this section shall cease to have effect at the end of the period of forty-eight hours following the hour the order was made if the person against whom such order was made has not been charged with a money laundering offence within that time.

(10) Any person to whom notice of an order made under subsection (3) is given in accordance with this section and who, while the order is in force, acts in contravention of or fails to comply with the order is, without prejudice to any other remedy provided at law, guilty of an offence punishable on summary conviction to imprisonment for a term not exceeding two years.

Forfeiture of property, proceeds or instrumentalities.

20.-(1)When a person is convicted of a money laundering offence, the Court shall order that the property, proceeds or instrumentalities derived from or connected or related to such an offence be forfeited and disposed of in such manner as the Minister may direct.

(2) When, as a result of any act or omission of the person convicted, any of the property, proceeds or instrumentalities described in subsection (1) above cannot be forfeited, the Court shall order the forfeiture of any other property of the person convicted, for an equivalent value, or shall order the person convicted to pay a fine of such value.

(3) In determining whether or not any property is derived from or connected or related to a money laundering offence the Court shall apply the standard of proof required in civil proceedings.

(4) In making a forfeiture order the Court may give directions for the purpose of determining any dispute as to the ownership of the property or any part thereof.

(5) For the purpose of this Act, the Court may infer that property

was obtained or derived as a result of the commission of a money laundering offence where evidence established that the value, after the commission of that offence, of all the property of the person alleged to have committed the offence exceeds the value of all the property of that person before the commission of that offence and the Court is satisfied that the income of that person from his legitimate sources as disclosed by him to the Court pursuant to subsection (6) cannot reasonably account for such an increase in value.

(6) A person convicted or absolutely or conditionally discharged of a money laundering offence may be summoned to appear before the Court at the instance of the competent authority and to give information as to his legitimate sources of income.

Rights of *bona fide* third parties.

21.-(1) The measures and sanctions referred to in sections 19 and 20 shall apply without prejudice to the rights of *bona fide* third parties.

(2) Proper notifications shall be made so that all those claiming legitimate legal interest in property, proceeds or instrumentalities may appear in support of their claims.

(3) A third party's lack of good faith may be inferred, at the discretion of the court or other competent authority, from the objective circumstances of the case.

(4) The Court or other competent authority shall return the property, proceeds or instrumentalities to the claimant, when it has been demonstrated to its satisfaction that:-

(a) the claimant has a legitimate legal interest in the property, proceeds or instrumentalities;

(b) no participation, collusion or involvement with respect to the money laundering offence which is the subject of

the proceedings can be imputed to the claimant;

(c) the claimant lacked knowledge and was not intentionally ignorant of the illegal use of the property, proceeds or instrumentalities or if he had knowledge, did not freely consent to its illegal use;

(d) the claimant did not acquire any right in the property, proceeds or instrumentalities from a person proceeded against under circumstances that give rise to a reasonable inference that any right was transferred for the purpose of avoiding the eventual subsequent forfeiture of the property, proceeds or instrumentalities, and

(e) the claimant did all that could reasonably be expected to prevent the illegal use of the property, proceeds or instrumentalities.

Limitations on freezing or forfeiture of property.

22. The provisions of sections 19 and 20 shall only apply to property coming into the possession or under the control of a person after the coming into force of this Act.

PART V

International Cooperation

Assistance to foreign countries.

23.-(1) The Court or other competent authority shall cooperate with the Court or other competent authority of another State, taking the appropriate measures to provide assistance in matters concerning money laundering offences, in accordance with this Act, and within the limits of their respective legal systems.

(2) The Court or other competent authority may receive a request

from the Court or other competent authority of another State to identify, trace, freeze, seize or forfeit the property, proceeds, or instrumentalities connected to money laundering offences, and may take appropriate actions, including those contained in sections 19 and 20 of this Act.

(3) A final judicial order of judgment that provides for the forfeiture of property, proceeds or instrumentalities connected to money laundering offences, issued by a Court or other competent authority of another State, may be recognised as evidence that the property, proceeds or instrumentalities referred to by such order or judgment may be subject to forfeiture in accordance with the law.

(4) The Court or other competent authority may receive and take appropriate measures with respect to a request from a Court or other competent authority from another State, for assistance related to a civil, criminal, or administrative investigation, prosecution or proceedings, as the case may be, involving money laundering offences, or violations of any provision of this Act. Such assistance may include providing original or certified copies of relevant documents and records, including those of financial institutions and government agencies, obtaining testimony in the requested States; facilitating the voluntary presence or availability in the requesting State of persons, including those in custody, to give testimony, locating or identifying persons, service of documents; examining objects and places; executing searches and seizures; providing information and evidentiary items, and provisional measures.

(5) Any provisions referring to bank secrecy or confidentiality shall not be an impediment to compliance with this section, when the information is requested by or shared with the Court or other competent authority.

(6) Assistance referred to in this section shall be provided only to those countries with whom Belize has entered into mutual assistance treaties on a bilateral or multilateral basis, and all such assistance shall be subject to the terms of such treaties.

PART VI

Miscellaneous

Money laundering an offence for extradition purposes.

24. Money laundering is an offence for the purpose of any law relating to extradition or the rendition of fugitive offenders.

Secrecy obligations overridden. CAP. 4.

25. Subject to the provisions of the Belize Constitution, the provisions of this Act shall have effect notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by any law or otherwise.

Disclosure protected.

26. It shall not be unlawful for any person to make any disclosure in compliance with this Act.

Prosecution of offences.

27.-(1)No prosecution in respect of any offence committed under this Act or the Regulations made thereunder shall be instituted except by, or with the consent in writing of, the Director of Public Prosecutions.

(2) All offences under this Act shall be tried summarily without the consent of the accused unless otherwise directed by the Director of Public Prosecutions.

Limitation of proceedings.

28. All prosecutions, actions, suits or other proceedings brought for any offence, or for the recovery of any fines, penalties or forfeitures, under this Act or the Regulations made thereunder, shall be brought within five years next after the date the offence was committed or the cause of action accrued.

Regulations.

29.-(1) The Minister may make Regulations for the better carrying out of the provisions of this Act and for prescribing anything that needs to be prescribed.

(2) All Regulations made under subsection (1) shall be subject to negative resolution.

Commencement.

30. This Act shall come into force on a day to be appointed by the Minister by Order published in the *Gazette*.

FIRST SCHEDULE
[Section 2]

Activities of financial institutions

1. "Banking business" and "financial business" as defined in the Banks and Financial Institutions Act, and in the Schedule to that Act;

CAP. 263.

CAP. 267.

2. "Offshore banking business" as defined in the Offshore Banking Act;

3. Venture risk capital;

4. Money transmission services;

5. Issuing and administering means of payments (e.g. credit cards, travellers' cheques and bankers' drafts);

6. Guarantees and commitments;

7. Trading for own account or for account of customers in:-

(a) money market instruments (e.g., cheques, bills, certificates of deposits, commercial paper, etc.);

(b) foreign exchange;

(c) financial and commodity-based derivative instruments (e.g., futures, options, interest rate and foreign exchange instruments, etc.);

(d) transferable or negotiable instruments;

8. Money broking;

9. Money lending and pawning;

10. Money exchange (e.g., casa de cambio);

11. Insurance business;

12. Real property business;

13. Credit unions;

14. Building societies;

15. Trust business;

16. Safe custody services.

SECOND SCHEDULE
[Section 2]

Prescribed offences

Blackmail

Counterfeiting

Drug Trafficking and related offences

Extortion

False accounting

Forgery

Fraud

Illegal deposit-taking

Robbery involving more than $10,000.00

Terrorism

Thefts involving more than $10,000.00

Arms trafficking

Kidnapping

Attachment 2

Money Laundering (Prevention)

BELIZE:

BILL

for

AN ACT to amend the Money Laundering (Prevention) Act, Chapter 104 of the Substantive Laws of Belize, Revised Edition 2000, to make improved provisions to combat terrorism; to provide for the freezing of funds and other financial assets of terrorists; to facilitate international cooperation in the investigation and prosecution of money laundering offences; and to provide for matters connected therewith or incidental thereto.

(*Gazetted* 8th December, 2001)

BE IT ENACTED, by and with the advice and consent of the House of Representatives and the Senate of Belize and by the authority of the same, as follows:

Short title

1. This Act may be cited as the

MONEY LAUNDERING (PREVENTION) (AMENDMENT) ACT, 2001

CAP. 104

and shall be read and construed as one with the Money Laundering (Prevention) Act, which is hereinafter referred to as the principal Act.

Amendment of section 2

2 Section 2 of the principal Act is hereby amended by inserting the following definition in its proper alphabetical order:

"terrorism" means the use or threat of action where –

(a) (i) the action falls within sub-paragraph (b),

(ii) the use or threat is designed to influence the government or to intimidate the public or a section of the public, and

(iii) the use or threat is made for the purpose of advancing a political, religious or ideological cause;

(b) action falls within this sub-paragraph if it –

(i) involves serious violence against a person,

(ii) involves serious damage to property,

(iii) endangers a person's life, other than that of the person committing the action,

(iv) creates a serious risk to the health or safety of the public or a section of the public, or

(v) is designed seriously to interfere with or seriously to disrupt an electronic system;

(c) the use or threat of action falling within sub-paragraph (b) which involves the use of firearms or explosives is terrorism whether or not sub-paragraph (a) (ii) is satisfied;

(d) in sub-paragraphs (a), (b) and (c) –

(i) "action" includes action outside Belize,

(ii) a reference to any person or to property is a reference to any person, or to property, wherever situated,

(iii) a reference to the public includes a reference to the public of a country other than that of Belize,

(iv) "the government" means the government of Belize or of a country other than Belize.

Amendment of section 11

3. Section 11 of the principal Act is hereby amended as follows:

(i) by renumbering that section as subsection (1);

(ii) in subsection (1) as so renumbered, by repealing paragraph (f) and replacing it by the following:

"(f) may instruct any financial institution to take such action as may be appropriate, including the freezing of funds and other financial assets or economic resources of any person or entity, to facilitate any investigation, prosecution or proceeding for a money laundering offence, whether in Belize or elsewhere;"

(iii) by adding the following as new subsection (2) immediately after subsection (1):

"(2) Every Order made by the Supervisory Authority pursuant to paragraph (f) of subsection (1) above for the freezing of funds or financial assets of any person shall cease to have effect after three clear days from the making of the Order, unless within such period the Supervisory Authority makes an application to a Judge of Supreme Court in Chambers for an order for the freezing of such property, and the application shall be heard by the Court as soon as practicable.

Addition of section 11A

4. The principal Act is hereby amended by the addition of the following as new section 11A immediately after section 11:

"Freezing of funds connected with terrorism

11A. (1) Where the Supervisory Authority has reasonable grounds for believing that the person by, for or on behalf of whom any funds are held is or may be –

(a) a person who commits, attempts to commit, facilitates or participates in the commission of acts of terrorism,

(b) a person controlled or owned directly or indirectly by a person in (a), or

(c) a person acting on behalf, or at the direction, of a person in (a),

the Supervisory Authority may by notice direct that those funds shall be frozen and shall not be made available to any person.

(2) A direction given under subsection (1) above shall specify either-

(a) the period for which the direction is to have effect; or

(b) that the direction is to have effect until it is revoked by notice under subsection (3) below.

(3) The Supervisory Authority may by notice revoke a direction given under subsection (1) at any time.

(4) A notice under subsections (1) or (3) shall be given in writing to the person holding the funds in question ("the recipient"), and shall require the recipient to send a copy of the notice without delay to the person whose funds they are, or for or on whose behalf they are held ("the owner").

(5) A recipient shall be treated as complying with that requirement if, without delay, he sends a copy of the notice to the owner at his last-known address or, if he does not have an address for the owner, he makes arrangements for a copy of the notice to be supplied to the owner at the first available opportunity.

(6) Where a direction has been given under subsection (1) above any person by, for or on behalf of whom those funds are held may apply to the Supreme Court for the direction to be set aside; and on such application the Court may set aside the direction.

(7) A person who makes an application under subsection (6) above shall give a copy of the application and any witness statement or affidavit in support to the Supervisory Authority (and to any other person by, for or on behalf of whom those funds are held), not later than seven days before the date fixed for the hearing of the application.

(8) Any person who contravenes or fails to comply with the requirements of this section shall be guilty of a money laundering offence and shall be liable to the penalties prescribed in section 6 of this Act."

Amendment of section 23

5. Section 23 of the principal Act is hereby amended as follows:

(a) by substituting the words "The Court, Supervisory Authority or other competent authority" for the words "The Court or other competent authority" wherever occurring therein;

(b) by repealing subsection (5) and replacing the same by the following:

"(5) Any provisions relating to bank secrecy or confidentiality shall not be an impediment to compliance with this section, when the information is requested by or shared with the court or other competent authority whether in Belize or elsewhere, and any disclosure made in pursuance thereto shall not be regarded as a breach of confidentiality imposed by law or contract;"

(c) by repealing subsection (6) thereof and substituting therefor the following:

"The Supervisory Authority may take such action as may be appropriate including the freezing of funds and other financial assets or economic resources of any person to comply with or give effect to a resolution of the Security Council of the United Nations adopted under Chapter VII of the United Nations Charter:

Provided that if the Security Council takes any subsequent decision which has the effect of postponing, suspending or cancelling the operation of such resolution, in whole or in part, any order made by the Supervisory Authority under this subsection shall cease to have effect or its operation shall be postponed or suspended, in whole or in part, as the case may be, in accordance with that decision."

Addition of new section 26A

6. The principal Act is hereby amended by the insertion of the following as new section 26A immediately after section 26:

"General penalty for non-compliance

26A. Every financial institution or other person who fails to comply with any direction or instruction given by the Supervisory Authority under this Act shall be guilty of an offence and shall, unless a penalty is specifically provided elsewhere, be liable on summary conviction to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding three years, or to both."

Amendment of section 27

7. Section 27 of the principal Act is hereby amended by repealing subsection (1) thereof and replacing the same by the following:

"(1) No prosecution in respect of any offence committed under this Act or any regulations made thereunder shall be instituted except by, or with the consent in writing of the Director of Public Prosecutions or the Supervisory Authority:

Provided that this subsection shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained."

Amendment of First Schedule

8. The First Schedule to the principal Act is hereby amended by the addition of the following at the end thereof:

"17. International financial services

18. Accounting services

19. Legal services".